

CALIFORNIA HIGH-SPEED TRAIN

Project Environmental Impact Report /
Environmental Impact Statement

Final EIR/EIS Fresno to Bakersfield Section

**Staff Response to
Comments Raised
Orally on May 6**

May 7, 2014



CALIFORNIA
High-Speed Rail Authority



**U.S. Department of Transportation
Federal Railroad Administration**



Staff Response to Issues Raised on Fresno to Bakersfield Section Final EIR/EIS

This brief staff report addresses key issues raised in verbal comments received at the Authority Board meeting held on May 6, 2014.

This memorandum was prepared by Diana Gomez, Regional Director, and Mark McLoughlin, Director of Environmental Services with additional support by Authority staff, and technical experts with the Project Management Team, and the URS/HMM/Arup JV.

I. Preventing Risk of Valley Fever

Several comments raised concerns regarding the risk of Valley Fever posed by construction of the high-speed train system. In addition, the County of Kings Department of Public Health, the City Attorney of Bakersfield, and Mehta letters raised Valley Fever as an issue. The EIR/EIS includes an evaluation of potential Valley Fever impacts from dust caused by ground disturbing activities during grading. The proposed project includes a series of fugitive dust reduction measures as design features in Chapter 3.3, including watering areas that will be disturbed and suspending dust-generating activities when wind speed exceeds 25 mph. Based on the application of these measures the evaluation concludes that the risk of Valley Fever from project construction would be a less-than-significant impact.

In light of specific Valley Fever concerns raised in public testimony, staff recommends that the Authority add specific requirements to the Construction Safety and Health Plans (CSHPs) regarding preventive measures to avoid Valley Fever exposure (Ch. 3.11, Design Features, 3.11.6). The recommendation is that the following be an additional design feature for Ch. 3.11, "Safety and Security."

The Construction Safety and Health Plan shall include the following:

1. Train workers and supervisors on how to recognize symptoms of illness, and ways to minimize exposure, such as washing hands at the end of shifts.
2. Provide washing facilities nearby for washing at the end of shifts.
3. Provide vehicles with enclosed, air-conditioned cabs and make sure workers keep the windows closed. Equip heavy equipment cabs with high efficiency particulate air (EPA) filters.
4. Make NIOSH-approved respiratory protection with particulate filters as recommended by the California Department of Public Health available to workers who request them.

II. Volume VI of Final EIR/EIS - Errata

Several commenters at the Board meeting expressed concern regarding Volume VI of the Final EIR/EIS providing certain comment letters and responses as an errata to the Final EIR/EIS released on April 18, 2014. The letters and responses included in Volume VI were inadvertently omitted from Volumes IV and V, but were reviewed by staff and the consulting team and carefully considered during preparation of the Revised Draft EIR/Supplemental Draft EIS and the Final EIR/EIS. These letters were included in the same response to comments process followed for all comments received on both the Draft and Revised Draft documents. All comments were reviewed, considered, and responded to by Authority and FRA staff.

These letters were inadvertently omitted from Volumes IV and V during production of the Final EIR/EIS due to a clerical error which incorrectly attributed submission dates to these letters that fell outside of the official comment periods for the Draft and Revised Draft documents. As the letters reproduced and responded to in Volumes IV and V were limited to those that were identified with submittal dates during the official comment periods of the Draft and Revised Draft documents, the Volume VI letters were inadvertently left out of the Final EIR/EIS released in April 2014. These letters remained in the record and housed in the comment database but were omitted in the production of the Final EIR/EIS in the hard copy volumes and CDs. This clerical error did not affect consideration and inclusion of these letters in the Revised Draft and Final EIR/EIS documents.

When the error was discovered, the letters with responses were compiled and sent to the commenters. Letters with responses were sent to the two commenting agencies by overnight mail on April 24, 2014 for delivery on April 25, 2014, and the remaining 35 letters with responses were sent to the business/organization and individual commenters by overnight mail on April 29, 2014 for delivery on April 30, 2014. The letters with responses were further included in Volume VI: Letters Inadvertently Omitted from Volumes IV & V and Errata and posted to the Authority and FRA's websites on May 2, 2014.

The FedEx tracking receipts of shipment and delivery of these letters includes record of delivery of a FedEx envelope to the residence of Alan Scott at 1318 Whitmore Street in Hanford CA, 93230 on April 30, 2014 at 10:53 a.m.

III. Fresno Chinatown Cultural Resources Questions

Merced to Fresno Section 106 Compliance

A representative of the Fresno Chinatown Revitalization Organization claimed that there were no changes in the Fresno-Bakersfield EIR/EIS to reflect additional archeological work conducted in the Fresno's Chinatown. This is correct and explains why there is no "shaded" text relative to Chinatown in

this section of the EIR/EIS. The simple reason is that Chinatown is covered by the Merced to Fresno EIR/EIS. A complete explanation of the history of CEQA/NEPA and Section 106 consultation.

In August 2012, the Merced to Fresno Section Memoranda of Agreement (MOA) and a built environment treatment plan (BETP) and archaeological treatment plan (ATP) were executed in compliance with Section 106 of the National Historic Preservation Act. The area of potential effect for the MOA and treatment plans was based on the Merced to Fresno project description that is included in the Final EIR/EIS. The area where Fresno Chinatown is located (shown in the map on the following page as CP 1B) is within an area where the Merced to Fresno and Fresno to Bakersfield Sections overlap in their respective CEQA/NEPA environmental documents due to the planned siting of the station.

Shortly after the ROD/NOD for Merced-Fresno, the first construction packages were identified. Some of the area of the overlap including Fresno Chinatown (CP 1B) that is within the first construction package was being addressed within the Fresno to Bakersfield Section 106 process. Because the Fresno to Bakersfield MOA and treatment plans were on a slower schedule, the Authority decided to address CP 1B as part of the Merced to Fresno Section 106 documents to facilitate construction of Construction Package 1. In accordance with the CAHSR Section 106 Programmatic Agreement, as new areas of potential effect are added or the potential for effects are modified, treatment plans are to be amended accordingly. As additional areas of potential effect are surveyed, they may be added through an addendum and receive the appropriate treatment measures as provided in the Programmatic Agreement. This is the normal procedure for Section 106 compliance.

It was also appropriate to not have the Section 106 documentation overlap because only the section of the high speed train that is constructed first can cause adverse effects in the geographic overlap area. Because this area was fully analyzed in the Merced to Fresno Section CEQA/NEPA analysis, it was simply a matter of adding this area to the Section 106 document by amending the MOA and preparing treatment plan addenda.

These addenda were sent to the City of Fresno for review and comment; however no comments were received and the addenda were finalized in May 2013. It was not until early September 2013 that the Fresno Chinatown Revitalization Organization's concerns about the project were provided to the Authority via the City of Fresno (a signatory to the MOA). Prior to that time, the Fresno Chinatown Revitalization Organization Inc. commented on the Merced-Fresno Draft EIR/EIS and their comments were responded to as part of the Response to Comments (FEIR/EIS Volume IV, pages 21-114 and 115).

After the Fresno Chinatown Revitalization Organization received a letter from the Authority's right-of-way team regarding the proposed acquisition of historic buildings in Chinatown, including one owned by Fresno Chinatown Revitalization Organization, they contacted the City of Fresno, who then contacted the Authority. Shortly thereafter, the City of Fresno provided the treatment plans to the Fresno Chinatown Revitalization Organization. On September 9, 2013, the Authority received comments from the City of Fresno that reportedly incorporated the Fresno Chinatown Revitalization Organization's

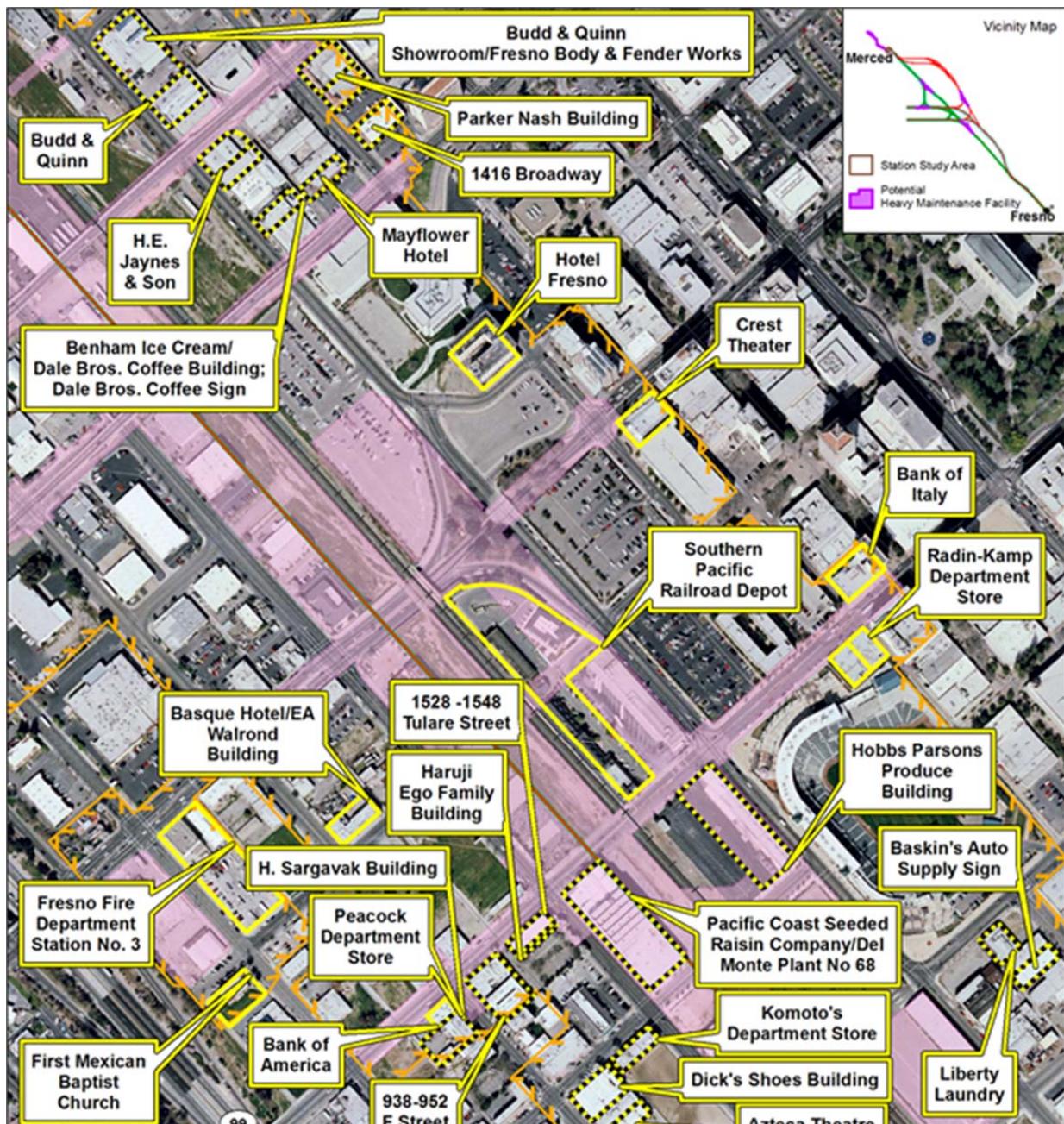


Figure 3.17-11
Cultural Resources along the Downtown Fresno Station Alternatives and Alignment

comments which were limited to the ATP. These comments were minimal and it was mutually agreed with the City of Fresno that they would be addressed in the resulting archaeological reports.

To address the Fresno Chinatown Revitalization Organization's concerns, the Authority set up a meeting on October 9, 2013 with Kathy Omachi and Jeremy Brownstein (representatives of the Fresno Chinatown Revitalization Organization) to review the treatment plans and address their concerns. Archaeologists representing the Authority, Benjamin Camarena and Diana Gomez of the Authority, and Karana Hattersley-Drayton, Preservation Officer for the City of Fresno met with Ms. Omachi and Mr. Brownstein over lunch. Their concerns focused on impacts to historic buildings and the 'Chinatown Tunnels'.

Regarding the buildings, the team clarified that the buildings are not in the Section 106 BETP because they are not eligible for the National Register of Historic Places but they are addressed in the Merced to Fresno EIR/EIS because they are historical resources for the purposes of CEQA. The team described the avoidance and mitigation measures outlined in the EIR/EIS.

In terms of the Chinatown tunnels, the team described the archaeological work that was proposed to look for significant archaeological resources. No concrete evidence has been provided regarding the existence of these tunnels and direct observation of the Authority's team indicated that they are interconnected basements. This has also been the opinion of the City of Fresno's Preservation Officer, Karana Hattersley-Drayton. Nonetheless, the team outlined the procedures in the ATP that would be followed if an historic tunnel was discovered during construction. At the meeting, the Authority extended the offer for the Fresno Chinatown Revitalization Organization to become a party to the MOA or alternatively to work through the City of Fresno as the Section 106 process progressed.

The Authority has made a good faith effort to involve potential interested parties as evidenced by the large number of concurring parties to the Merced to Fresno MOA. It was only when the Fresno Chinatown Revitalization Organization's concerns were brought to the attention of the Authority by the City of Fresno in early September 2013 that Authority staff became aware that the organization's interests extended beyond economic revitalization to historic preservation. Upon learning this, the Authority reached out to involve the organization in the Section 106 compliance process. As fieldwork was conducted in conformance with the addendum ATP, the Fresno Chinatown Revitalization Organization was informed in advance of the work. While efforts to keep them informed regarding the field efforts were acknowledged, they did not respond to offers for them to be further involved.

CEQA/NEPA Compliance

The CEQA/NEPA analysis for the area of downtown Fresno, including Chinatown, is contained within the Merced to Fresno EIR/EIS. Both the Merced to Fresno and Fresno to Bakersfield EIR/EIS sections expressly recognized and disclosed that there was a potential for urban historic archaeological resources to be present in downtown Fresno. On page 3.17-31 of the Merced to Fresno FEIR/EIS the following statement can be found:

Archaeologically Sensitive Areas

Archaeologically sensitive areas have also been identified within the APE. These include the Kojima Development Site on the BNSF Alternative/HMF site, as well as an area near the Rotary Park in Madera on the UPRR/SR 99 Alternative. The appropriate level of subsurface testing of these locations will be conducted once design plans have advanced and permission has been granted by private landowners to conduct testing. Similarly, historic map research has identified sections of the Merced to Fresno HST as sensitive to historic archaeological resources, namely in the urban centers of Merced, Madera and Fresno. These would include properties that contained residential, industrial, commercial or transportation-related structures and activities. Once a preferred alternative is selected and project impacts measurable, the possibility that potentially significant historic archaeological sites may be impacted can be assessed and archaeological testing methods can be established.

After the preferred alternative was selected and the construction package was identified, the decision was made to add the downtown area of Fresno to the Merced to Fresno Section 106 documents. As described above, the Authority then determined what additional Section 106 identification work might be needed using the information from the Merced to Fresno EIR/EIS as well as the draft EIR/EIS for Fresno to Bakersfield. The Merced to Fresno addendum ATP for Section 106 compliance then built on that information to determine how to address the potential for such deposits to be present and treatment if they were found and could not be avoided. To address the potential for archaeological resources to be present in downtown Fresno, the first step in implementing the addendum ATP is the requirement to identify whether significant deposits are present. Fieldwork is almost complete and no significant archaeological deposits have been identified.

The Merced to Fresno EIR/EIS also includes an assessment of impacts on the buildings in Chinatown. Figure 3.17.11 shows the buildings considered historical resources for the purposes of CEQA that were analyzed for impacts in downtown Fresno including Chinatown. Specifically, both operational and construction vibration was assessed in the Merced to Fresno EIR/EIS and it was found that operation vibrations will not exceed acceptable thresholds. The potential for vibration impacts from construction is also addressed in the Merced to Fresno EIR/EIS.

For the area of overlap (CP 1B) that is also within the Fresno-Bakersfield EIR/EIS, the analysis refers to the impacts and mitigation measures in the Merced to Fresno EIR/EIS and the Merced to Fresno MOA and treatment plans and their addendum. This is because the Merced to Fresno Section, being constructed first, will also be the Section that causes the impacts and implements the mitigation in the overlapping area.

The potential impacts to historical archaeological deposits are disclosed in the Fresno to Bakersfield EIR/EIS on 3.17.15 where the following statement can be found:

... While it is unlikely that privies or other hollow features containing historic archaeological assemblages are located within the railroad corridor, this analysis concluded that there is a high probability that intact subsurface historic archaeological deposits are located in metropolitan areas. See the California High-Speed Train Fresno to Bakersfield Archaeological Survey Report (ASR) (Authority and FRA 2011c) for details regarding this analysis.

Additionally, Fresno Chinatown is specifically called out on page 3.17.49 in Table 3.17-5 showing Fresno Chinatown as a previously recorded or known historic archaeological site. Considerable discussion of the potential for deposits to occur in Fresno Chinatown is included on pages 3.17.50 and 3.17.51.

IV. 4f/6f in Bakersfield

Section 4(f) of the Department of Transportation Act (49 United States Code 303 Section 4(f)) and the Land and Water Conservation Fund (LWCF) Act of 1965 (Section 6(f)) establish legal requirements for operating administrations of the U.S. Department of Transportation such as the FRA. Under Section 4(f) the FRA may not approve a project that uses protected properties unless there are no prudent or feasible alternatives to such use, and the project includes all possible planning to minimize harm to such properties. Section 4(f) protected properties are publicly owned lands of a park, recreation area, or wildlife and water fowl refuge, or lands of a historical site of national, state, or local significance as determined by the federal, state, regional, or local officials having jurisdiction over the resource. Section 6(f) properties are recreation resources created or improved with funds from the LWCF Act. Land purchased with these funds cannot be converted to a non-recreational use without coordination with the National Park Service and mitigation that includes replacement of the quality and quantity of land used.

The FRA must make determinations showing the agency's compliance with Section 4(f) and Section 6(f) before releasing its Record of Decision on the project. Section 4(f) and Section 6(f) are not CEQA issues and the Authority has no action to take regarding these federal regulations. The Board is being requested to determine if the Final EIR is in compliance with CEQA and to adopt the project from Fresno south to 7th Standard Road. None of these actions influence the FRA Section 4(f) and 6(f) determinations in Bakersfield.

The FRA has published a draft 4(f) and 6(f) evaluation with the Final EIR/EIS. None of the project alternatives would impact a property covered by Section 6(f). The only recreation resource near a project alternative that has received LWCF Act funding in Bakersfield is Yokuts Park located adjacent to the Kern River north of Truxtun Avenue and west of SR 99. The project would not convert any of the land in this park to a non-recreational use.

All of the project alternatives in Bakersfield would cross above areas of Mill Creek Linear Park used by pedestrians. The guideway would cross perpendicularly on an elevated structure above the portion of the Mill Creek Linear Park that straddles Kern Island Canal south of the existing BNSF right-of-way.

Footings for the columns that would support the guideway may be constructed within this portion of the park and the completed guideway would span the park. Although no portion of Mill Creek Linear Park would be purchased for the HST guideway and the park land underneath the elevated guideway would remain available for park use in accordance with the Authority's policy on Access Control for High-Speed Rail Right-of-Way and Facilities Memo (Parsons Brinckerhoff 2013), a permanent 90-foot-wide maintenance easement would be obtained. The footings located within the Mill Creek Linear Park and the maintenance easement may result in a Section 4(f) use of Mill Creek Linear Park.

Construction of the guideway could require temporary closure of a portion of the park for safety purposes while construction takes place. In addition, construction of the guideway footings and columns for the BNSF Alternative would require temporary closure and reconfiguration of access to the park from the Q Street undercrossing. However, temporary detours would be provided during construction of the guideway to provide access. Following the completion of construction activities, portions of the Mill Creek Linear Park impacted by the project would be restored to the condition it was in before project construction or better.

The project would result in visual and acoustic impacts that would adversely affect park users; however, the impacts are not expected to be so severe as to substantially impair the attributes that qualify the resource for protection under Section 4(f); the park would continue to be a useable facility for pedestrians seeking recreation. Additionally, mitigation measures as described in Chapter 4 of the Final EIR/EIS, would be employed to reduce these impacts. Further, FRA and the Authority are continuing ongoing coordination with Bakersfield officials; during FRA's consideration of its decision to be made, and during final design, additional measures may be agreed upon to further reduce potential impacts to this property.

V. Specific Impacts to Properties:

a. Machado Dairy

Dairy impacts have been extensively studied through Impact AG #7 as well as the economic impacts to the dairy industry in Impact SO #15. In some instances, impacts to dairy operations may be limited to effluent fields and supporting irrigation facilities. By installing irrigation utility crossings below the HST ROW, the transmission of dairy effluent may be perpetuated to severed parcel remnants. This, and other mitigation measures, will significantly reduce the loss of effluent field acreage. As far as permitting is concerned, the Authority will work individually with each impacted dairy to help them acquire new or revised permits related to their operations. This practice is described in the agricultural section project design features.

b. Baker Commodities

The Authority has met with the management of the Baker Commodities plant in Hanford, California on several occasions to discuss potential project impacts and methods to mitigate those impacts. Baker Commodities has agreed that the Authority can reconfigure facilities on their property so that the project will not impact their operations and the plant can remain in operation at its existing location.

c. Cooper Brothers Farming Operation East of Corcoran

Comment: Overcrossings at Avenue 144 and SR 43 will create substantial impacts to their farming operation.

Response: The overcrossings referred to are associated with the BNSF (through Corcoran) alignment. The recommended alternative is the Corcoran Bypass which does not require these overcrossings. As a result, HSR will only require an 80' to 100' strip through their farm. Further, because the alignment will be elevated through part of their property, they will be able to access both sides of the alignment under the HSR viaduct. HSR staff met with the Coopers and explained that the overcrossings would not be required with the preferred alignment.

Comment: Avenue 144 is the main commute route to the Corcoran State Prison. Closing 144 will impact traffic in the area

Response: HSR will be in viaduct over Avenue 144. It will not be closed.

d. Hansen Farm

Comment: Why are there three overcrossings in three miles?

Response: In the initial design phase, the number of overcrossings is determined by traffic volumes on individual roads. As the project progresses through the final design phase, local jurisdictions may allow for the omission of overcrossings that they believe are unnecessary.

Comment: Are current land values accurately reflected in the project budget?

Response: The cost of mitigation and property acquisition is included in the cost estimate for the Fresno-Bakersfield Section. It is summarized in Chapter 5 of the EIR/EIS. All cost estimates are developed in 2010 base year dollars then escalated per the actual and projected escalation rates provided by KPMG, a US audit, tax and advisory services firm. The cost estimate for the Fresno-Bakersfield Section is consistent with this methodology.

e. PFF Farm (Hormel)

Comment: Avenue 120 Overcrossing significantly impacts Hormel's effluent disposal field.

Response: HSR staff has met with Hormel Foods three times over the last year and understands the issue described by the operations manager. Staff has met twice with Tulare County to discuss options for modifying the planned overcrossing to minimize economic harm to this business related to their displaced disposal area. Options to modify the planned overcrossing can be done within the environmental footprint evaluated in the FEIR. The County is supportive of these efforts and HSR will continue to work with Hormel and Tulare County. Any loss of disposal area will be compensated at fair market value.

Comment: HSR Mainline impacts Hormel's Feed Mill located adjacent to the BNSF Tracks south of Avenue 112.

Response: The HSR alignment will result in a total take of the subject facility. As indicated in the Volume IV response to comments, HSR will work with the property owner to ensure that the owner receives just compensation for project damages. Further, Authority staff has committed to Hormel to assist them in finding a site for relocation of the mill. The Authority has an established track record in Fresno County with successfully assisting business relocations. We believe we can continue these efforts as the project moves south into Kings, Tulare, and Kern Counties.

VI. Census Data

Census 2000 to 2010 – Impacts related to displacements and noise were not done using census data, as they were conducted on a parcel by parcel basis. The use of 2000 census data was utilized as data from the 2010 census were released starting in April 2011 and continued through September 2013. Data for larger geographies (national level) were released earlier, and data for smaller geographies (state, city, county, etc.) were released later. Given the timing of the EIR/EIS analysis (conducted beginning in late 2009 and continuing for the RDEIR/SDEIS until summer 2012) it was not possible to comprehensively incorporate the 2010 census data, particularly for the county-level and smaller, focused data that was not released as of that time. The reliability of the decennial census warranted the presentation of 2000 census data in the RDEIR/SDEIS as a point of comparison with the most recent data available at the time. The most recent data at the time of the analysis included California Department of Finance (CDOF) and California Employment Development Department (CEDD) estimates for 2010, and the U.S. Census American Community Survey (ACS) single-year estimates for 2008.

Outreach was conducted to obtain insights from local experts about any substantial developments or demographic changes that may have occurred in the study area between 2000 and 2010 that could lead to a change in the environmental justice areas identified. Maps of 2000 census-based findings were provided to these experts for their review and comment. These maps highlighted the area of concern for environmental justice communities within ½ mile of the project alignment including the station areas. As a result of these experts' comments, some changes were made to the identification of environmental justice areas.

Recently published demographic and economic reports were reviewed (April 2014) and corroborate the data presented in the baseline analysis in the EIR/EIS and technical reports and show consistency with the overall growth trends occurring in the San Joaquin Valley. As a result, it is appropriate for agency decisions makers to rely upon the analysis presented in the EIR/EIS and technical reports.

VII. Time to Review Final

Individuals expressed concerns that there might be inadequate time for affected communities to review and respond to the documents that we will be considering.

Board consideration of the Final EIR/EIS document is simply another step in a very long process that has afforded far more public participation than what is required by law, along with extensive outreach.

CEQA does not require an additional opportunity for public comment on the Final EIR/EIS following the comment period on the Draft Revised EIR/Supplemental EIS. However, in the interest of public engagement and full transparency, and because all Board meeting offer the public an opportunity to comment on any item, we have provided yet another opportunity for public input. We released the final EIR/EIS well in advance of the regularly scheduled May 6 & 7 Authority Board meeting.

VIII. Bakersfield Request for 60 Day Notification

The City of Bakersfield asked the Authority to agree to notify the Bakersfield at least 60 days before the Authority makes a decision to construct south of 7th Standard Road. Staff supports agreeing to Bakersfield's request.

IX. Kit Carson School District

Relocations within the Kit Carson Elementary School District would result in the potential loss of an estimated 9 students (out of 448 enrolled). The school is outside of the ½ mile study area for schools and is not within an area subject to impacts from the proposed project.

The Authority met with the school district on March 9, 2011, and soon thereafter, hosted a public information meeting located on the Kit Carson campus on May 18, 2011 that drew nearly 100

individuals. In addition, Kit Carson has been notified, and provided copies of the materials upon the release of the Draft EIR/EIS, Revised Draft EIR/Supplemental Draft EIS, and the Final EIR.